

UNITED STATES DISTRICT COURT
DISTRICT OF NEVADA

JAMES ERIC FINIAS,

Petitioner,
v.

RENEE BAKER, *et al.*,

Respondents.

Case No. 3:19-cv-00142-LRH-CBC

**ORDER GRANTING MOTION FOR
LEAVE TO AMEND (ECF No. 12)**

RENEE BAKER, *et al.*

Respondents.

This action is a petition for writ of habeas corpus, pursuant to 28 U.S.C. § 2254, by James Eric Finias, a prisoner at Nevada’s Lovelock Correctional Center. On March 13, 2019, the Court appointed counsel to represent Finias (ECF No. 3), and on April 16, 2019, the Court entered a scheduling order (ECF No. 9). The scheduling order includes a provision granting Finias time – until July 15, 2019 – to file an amended habeas petition. *See* Order entered April 16, 2019 (ECF No. 9), p. 1.

17 On June 7, 2019, Finias filed a document entitled “Supplemental Claims to Petitioner’s
18 Pro Se Petition for Writ of Habeas Corpus” (ECF No. 11), setting forth additional claims to be
19 asserted by Finias in this case. Finias’ June 7 filing states that it was filed in order to present the
20 new claims before the expiration of the applicable limitations period. The Court intends to
21 convey no opinion in this order regarding the operation of the statute of limitations in this case,
22 or the timeliness of any claim asserted, or to be asserted, by Finias.

On June 11, 2019, Finias filed a Motion for Permission to File First Amended Petition (ECF No. 12), requesting leave of court to file a First Amended Petition, apparently to include the claims in the June 7 filing (ECF No. 11), claims from Finias' original *pro se* petition (ECF No. 4), and perhaps other claims. Respondents did not respond to Finias' motion for leave to amend.

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Leave to amend a habeas petition is governed by Federal Rule of Civil Procedure 15(a), and ““shall be freely given when justice so requires.”” *Morris v. United States District Court*, 363 F.3d 891, 894 (9th Cir. 2004) (quoting Fed. R. Civ. P. 15(a)). “The policy of allowing amendments ‘is to be applied with extreme liberality.’” *Waldrip v. Hall*, 548 F.3d 729, 732 (9th Cir. 2008) (citation omitted). Courts generally consider five factors: “bad faith, undue delay, prejudice to the opposing party, futility of the amendment, and whether the party has previously amended his pleadings.” *Id.* (quoting *Bonin v. Calderon*, 59 F.3d 815, 845 (9th Cir. 1995)). Respondents have not yet responded to Finias’ petition (see Fed. R. Civ. P. 15(a)(1)(B)), and there is no indication that any factors listed in *Waldrip* weighs against permitting Finias leave to amend. Therefore, good cause appearing,

11 **IT IS HEREBY ORDERED** that Petitioner's Motion for Permission to File First
12 Amended Petition (ECF No. 12) is **GRANTED**. Petitioner is granted leave of court to file a first
13 amended petition for writ of habeas corpus on or before July 15, 2019.

14 **IT IS FURTHER ORDERED** that, in all other respects, the schedule for further
15 proceedings set forth in the order entered April 16, 2019 (ECF No. 9) will remain in effect.

17 DATED this 8th day of July, 2019.

LARRY R. HICKS
UNITED STATES DISTRICT JUDGE